

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
NEIL JOHNSON,

Plaintiff,

- against -

Warden J. KILLIAN,
and Chaplain RABBI LASKIN,

Defendants.

-----x
07 Civ. 6641(LTS)(DFE)

MEMORANDUM AND ORDER

DOUGLAS F. EATON, United States Magistrate Judge.

On June 6, 2007, plaintiff (a *pro se* prisoner) mailed his Complaint to our Court's Pro Se Office. On July 24, 2007, Chief Judge Wood allowed the Complaint to be filed, and it received Docket Number 07 Civ. 6641(LTS)(DFE), which must be written at the start of each letter or other document in this case.

The Complaint seeks two kinds of injunctive relief against the Warden and Chaplain at the Federal Correctional Institution ("FCI") in Otisville, New York.

First, plaintiff asks that our Court "declare the actions of the Defendants [to be] outside of established law" because they denied him and other Muslim inmates the right to perform prayers five times a day in a group setting (congregational prayers). (Compl. ¶ 15(A).) He says that in 2005, the administration at FCI Otisville "began enforcing a policy which denied Muslims the right to perform congregational prayers in the housing units." (Compl. ¶ 7.) Instead, congregational prayers could only be performed in the chapel area; if the chapel area was not open, then Muslim inmates would have to pray individually in their cells. Plaintiff claims this policy violated the religious rights of Muslim inmates. (Compl. ¶¶ 8-12.)

Second, plaintiff asks for "[e]mergency injunctive relief granting a restraining order against Plaintiff being transferred during the pendency of this action which would effectively moot his suit." (Compl. ¶ 15(B).)

On August 31, 2007, District Judge Laura Taylor Swain referred this case to me for general pretrial supervision. On September 26, 2007, I issued a Memorandum and Order directing

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plaintiff to serve the defendants before December 3, 2007 or the case would be dismissed. On October 25, 2007, Rabbi Laskin was served with the Summons and Complaint; on October 29, Warden Killian was served. On November 27, 2007, I granted the defendants a 45-day extension of time to respond to the Complaint.

According to the docket sheet, on October 29, 2007, plaintiff filed a change of address form stating that he had been transferred from FCI Otisville to FCI Elkton in Lisbon, Ohio. I note that FCI Otisville is a medium security facility, while FCI Elkton is a low security facility. Hence, it appears that plaintiff's second request (for an injunction that would keep him in FCI Otisville) is now moot. His transfer to a lower security facility would seem to be generally beneficial to him. Moreover, it may be that FCI Elkton is willing and able to accommodate plaintiff's request for congregational prayers five times a day in a group setting.

I direct plaintiff to send to me, no later than **December 14, 2007**, a signed answer to the following question (along with a certificate that he has mailed a true copy to Li Yu, Esq.): "Is FCI Elkton violating plaintiff's right to perform congregational prayers?"

If plaintiff answers "yes," then I will recommend that Judge Swain transfer this lawsuit to the United States District Court for the Northern District of Ohio. If plaintiff does not answer "yes," then I will recommend that Judge Swain dismiss plaintiff's entire Complaint as moot.

Douglas F. Eaton
DOUGLAS F. EATON
United States Magistrate Judge
500 Pearl Street, Room 1360
New York, New York 10007
Telephone: (212) 805-6175
Fax: (212) 805-6181

Dated: New York, New York
November 30, 2007

Copies of this Memorandum and Order were sent on this date by mail to:

Neil Johnson
11679-014
Federal Correctional Institution-Elkton
P.O. Box 10
Lisbon, Ohio 44432

Li Yu, Esq.
Assistant United States Attorney
Southern District of New York
86 Chambers Street, 3rd Floor
New York, NY 10007

Hon. Laura Taylor Swain